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A DECISIVE YEAR IN BRAZIL

Speaker Rodrigo Maia and Experts Address Crucial Choices Facing the Country in 2018

EXECUTIVE SUMMARY

Although the October 2018 elections in Brazil are less than ten months away, the outcome is impossible to predict. As Congressman Rodrigo Maia, President of the Chamber of Deputies, said in his keynote remark at the Wilson Center, the election is still “a hundred years away;” much could happen between now and then. In his remarks, Maia stressed that this is true not only for the election—where the field of presidential hopefuls is likely to shift significantly between now and the August 15 deadline for parties to register candidates—but also for the government’s reform agenda, which, Maia contended, the administration of President Michel Temer remains committed to pushing forward. He argued that reforms and revamping social programs, along with opening the country to global markets, will be critical to Brazil’s continued recovery from the economic crisis of the last four years. Maia expressed confidence that the Brazilian people would support the reforms once they understood its benefits, and said he has faith that voters will choose wisely in October.

The panel of experts that followed Maia’s key note speech presented a far less certain picture of the Brazilian electorate and the election. Mauricio Moura, of IDEA Big Data, noted that an opinion poll he conducted in early January at the suggestion of the Brazil Institute showed that 79 percent of voters could not remember who they voted for in the last congressional elections, and 80 percent believed that the political environment would get even worse in 2018.

Fernando Limongi, professor at the University of São Paulo, contended that free radio and TV ad time available to candidates is likely to play a critical role in determining the winner of the October presidential election. As a result, he argued that we are still likely to see the formation of two strong coalitions, as we have in every election since the return to democracy in the 1980s, but it is difficult at

the moment to guess the coalition leaders—the political environment has shifted significantly over the last year, and traditional alliances may no longer hold.

Oscar Vilhena Vieira, Dean of the Getúlio Vargas Law School in São Paulo, noted that former President Lula is likely to continue campaigning, despite his criminal conviction and sentencing to 12 years in prison, which was confirmed by a federal appeals court on January 24, with several avenues for appeals that could keep him in the race for months, and perhaps even through the election.

Matthew Taylor, American University Professor of Political Science, stated that new rules governing campaign financing and the shortening of the campaign to 45 days could influence the outcome in ways yet unknown. He also pointed out that the election is just the beginning: whoever wins the presidency will need to form a governing coalition in a Congress that has been dramatically reshaped by the anti-corruption investigation of the “Lava Jato” scandal aggressively pursued by federal prosecutors.

Left-right: Director Paulo Sotero of the Brazil Institute, Ambassador Anthony S. Harrington, and Congressman Rodrigo Maia at the Wilson Center, January 17, 2018



A Decisive Year in Brazil: Speaker Rodrigo Maia and Experts Address Crucial Choices Facing the Country in 2018

Wednesday, January 17, 2018, 9:00 am – 12:30 pm

6th Floor, Woodrow Wilson Center

KEYNOTE FROM THE HONORABLE RODRIGO MAIA, PRESIDENT OF BRAZIL'S CHAMBER OF DEPUTIES

In his introduction, **Ambassador Anthony S. Harrington**, chairman of the Brazil Institute Advisory Council, affirmed that 2018 is the most important year for Brazil since the reinstatement of democracy in the mid-1980s. In just ten months, Brazil will hold presidential, gubernatorial, and congressional elections, as the country emerges from an unprecedented economic recession and a divisive political crisis. In the past four years, Brazilian democracy has withstood the pressures of a massive corruption scandal, which has engulfed many top politicians and business executives, the impeachment of former President Dilma Rousseff, and an increased feeling of distrust in the administration's ability to govern effectively and honestly.

Congressman Rodrigo Maia, President of the Brazilian Chamber of Deputies, began his keynote speech with a critique of the "interventionist state" created by former President Dilma Rousseff, charging that it was a leadership style that also characterized the military dictatorship. He affirmed that, under the administration of President Michel Temer, the Brazilian government is finally back on the fiscally responsible track initiated during the return to democracy in the mid-1980s.

According to Maia, Brazil is currently recovering from one of the worst economic crises in the country's history. He argued that a series of amendments to the 1988 Constitution increased mandatory government expenditures, which, coupled with an aging population, has placed a heavy burden on the Brazilian pension system. He also argued that economic policies since 2008 have further increased spending relative to government revenue; a problem that was exacerbated as economic growth slowed between 2012 and 2014.

Given this economic context, Maia emphasized the need for fiscal and structural reforms. The nascent economic recovery will allow the government to meet its current

fiscal obligations, but Maia argued that this alone will not balance government accounts in the long term. He urged the Brazilian Congress to pursue immediate reform of the pension system and other policy areas. Maia admitted that much of the reform agenda is unpopular, especially during an electoral year, but insisted that the government must act, particularly as rising state and municipal obligations financially strain the country.

Maia attributed the unpopularity of many government reforms to the lack of knowledge available to citizens. The illusion that the population has the same quality of information as policymakers creates a dissonance in society. Maia suggested that members of Congress should continue to pursue these policies while educating their constituents on the positive impact of such reforms. He expressed confidence that once people are properly informed, they will support the reform measures.

Maia also addressed the need to open the domestic Brazilian market to global competition. He argued Brazilian companies should concentrate production in areas where Brazil has competitive advantages, and import goods that are less efficient to produce domestically. Maia used Embraer, the world's third largest civil aircraft manufacturer, as an example of how the forces of private investment, global competition, and public policies that encouraged technological innovation combined to make Embraer a global aviation powerhouse. He argued Brazil should adopt similar strategies in other sectors, despite the fact that such a policy would create winners and losers. The more competitive sectors would benefit from cheaper prices.

Maia concluded his remarks by stressing the need for Congress to reassess social spending to ensure the best use of the federal budget. He expressed his conviction that the programs are inefficient and have failed to fully address the needs of the poor, even stating that he



Congressman Rodrigo Maia at the Wilson Center, January 17, 2018.

believes welfare programs have enslaved the poor. He contended that well-designed social programs should support citizens but encourage them to walk on their own; instead, he believes Brazil's current programs have led the poor to become dependent on the state.

Following his speech, Maia answered several questions from the audience.

When asked to specify a program that suffered from poor government implementation, Maia named Minha Casa, Minha Vida. The program, launched in 2009, provides financing for low-income families to either buy a new government-built house or renovate their existing home. Maia argued that although the government provides housing, the new neighborhoods constructed as part of this program lack schools, health clinics, and proper sewage systems. Instead, Maia said he favored social programs that offered comprehensive solutions to help the nation's poor.

Questioned about his thoughts on Lula running for president, Maia acknowledged the possibility that the former president will be a candidate despite the pending criminal charges, and asserted that it would be good for the country if Lula runs. However, he expressed confidence that Lula would lose the election. Maia was also questioned about rumors about his own interest in running for the presidency; he responded that he is

currently polling at just 1 percent, but suggested that he might consider running if his poll numbers improved.

Although the elections are scheduled for later this year, Maia emphasized that they are still "100 years away" politically. He claimed that the current administration's agenda is still full, and pointed out that the field of presidential candidates will likely evolve significantly as Lula's case progresses and the country reacts to the changing political and economic environment.

Maia ended by sharing his hope that the Brazilian people will elect a leader in 2018 with a strong reform agenda, who will work to reorganize the Brazilian state, encourage Brazilian companies to compete in global markets, and create favorable economic and legal conditions for domestic and foreign investment.

PANEL DISCUSSION

Mauricio Moura, founder and chief executive officer of IDEIA Big Data, presented his recent public opinion poll on the current political climate in Brazil. IDEIA conducted a random sample survey of over 5,000 people in thirty-seven cities across Brazil during the second week of January, 2018.

Moura noted that the popular frustration with elected leaders observed in the United States and elsewhere in the world is also present in Brazil. When asked if the National Congress represents the Brazilian public, 84 percent of those surveyed responded no. Similarly, 73 percent of respondents do not believe that members of Congress act in the best interest of the Brazilian people.

Underscoring this disconnect between elected officials and voters, 79 percent of respondents could not recall the name of the congressional candidate they voted for in 2014. Of those who did remember, just 15 percent paid attention to how their representatives voted in Congress. Moura asserted that accountability requires constituents to monitor the decisions of their representatives and actively demand results. Politics is an easy profession when voters are inattentive.

The survey also found that honesty is the number one attribute voters seek in candidates running for public office. Moura explained that honesty is no longer a given: an early consequence of the Lava Jato scandal has been a loss of trust between people and their representatives. Moura also emphasized previous opinion polls have never shown such a high demand for honesty.

According to the study, 80 percent of respondents think Brazilian politics will get worse in 2018. However, for the first time in the three years in which this study has been conducted, more than half of the respondents (51 percent) believe that the Brazilian economy will improve, compared to the previous year.

Interestingly, despite expressing broad concern over politics and governance, 70 percent of survey respondents also expressed a belief that their own life will be better in 2018. Moura noted that, based on his surveys, this is a normal trend in Brazilian society: people tend to be optimistic about their lives even during difficult national moments.

Fernando de Magalhães Papaterra Limongi, professor of Political Science at the University of São Paulo and a Brazil Institute Global Fellow, began with the famous quote from Brazilian composer Tom Jobim: “Brazil is not for beginners.” He noted that Brazilian politics looks unpredictable and chaotic, with dozens of parties vying for seats in national, state, and local elections and political fragmentation increasing each year. However, he argued that despite this seeming disorder, Brazilian politics since re-democratization has been dominated by just two parties: a structure that allows experts to better predict the possible outcomes of the next election.

Limongi explained that although Brazil has over forty political parties, each party does not endorse its own presidential candidate. Instead, Brazilian campaigns are dominated by coalitions, whereby multiple parties coordinate to support a single candidate. He noted that over the past seven elections, two main groups have emerged: one led by the Workers’ Party (PT) of former President Lula, and the other led by the Brazilian Social Democratic Party (PSDB) of former President Fernando Henrique Cardoso. Although other coalitions do exist, they are minor in comparison. According to Limongi, historically the candidates who placed third and fourth in the first round elections never posed a real threat to the PT and PSDB candidates, who always made it through to the runoff election. Therefore, in practice, the presidential race has always been one with only two viable candidates.

Limongi said it is difficult, due to the country’s political turmoil, to predict whether the new coalitions formed for the 2018 election will be led by PT and PSDB. There is evidence in favor of PT and PSDB retaining their influence; but there is also evidence suggesting a political shift. He noted that many members of the PT and PSDB have been convicted or are under investigation in the Lavo Jato corruption scandal. This could hurt their ability to successfully propel a presidential candidate to victory. On the other hand, both PT and PSDB have well-established national party structures, control significant resources, and have strong pre-candidates, with former President Lula running for PT and governor of the State of São Paulo Geraldo Alckmin running for PSDB.

However, Limongi also argued that despite the uncertainty surrounding the race, there is no reason to

think the two-candidate structure of the presidential election will change. Unlike in the United States, where candidates focus on fundraising, in Brazil the most important resource is the free radio and television ad time that the government grants to parties. Limongi noted that each party receives ad time proportional to the number of representatives they have in the lower house of Congress. Coalitions are important because the parties transfer their ad time to the candidate the coalition supports in each race, increasing the amount of airtime they can use. This system advantages large coalitions, headed by large parties with national reach, and makes it near impossible for an “outsider” candidate or a candidate from a smaller, regional party to win the presidency in Brazil.

Limongi concluded by stating that he has no conclusion about this year’s election; there is too much unpredictability in the presidential field. However, he argued that radio and television time will remain the most important resource and best predictor of the candidates with the best chance of winning.

In his remarks, **Oscar Vilhena Vieira**, the dean of the São Paulo School of Law at the Getúlio Vargas Foundation, shifted the focus from the general electoral scenario to the specific campaign of former President Lula. In July 2016, Judge Sergio Moro convicted Lula on charges of corruption and money laundering, and sentenced him to 9.5 years in prison. Lula appealed the conviction and, as of the date of this event, was awaiting the federal appeals court’s ruling.

Vieira pointed out that in 2010, the Brazilian Congress amended the Constitution to impose more rigorous eligibility criteria for public office, in response to the Mensalão corruption scandal. The Lei da Ficha Limpa (Clean Record Law) states that anyone whose criminal conviction is upheld by a federal appeals court is barred from running for public office. Before the Ficha Limpa law, candidates retained all of their political rights (including the right to run for office) until they had exhausted all of their appeals—a process that frequently took years and ended in the Supreme Court.

Left-right: Paulo Sotero, Director of the Brazil Institute; Mauricio Moura, Founder and CEO of IDEIA Big Data; Fernando Limongi, Brazil Institute Global Fellow and Professor of Political Science at the University of São Paulo; Oscar Vilhena Vieira, Dean of the FGV School of Law-São Paulo and Brazil Institute Global Fellow; and Matthew Taylor, Associate Professor at American University’s School of International Service.



Vieira noted that most experts expected the Federal Court of Appeals in Porto Alegre reviewing Lula's case to uphold the conviction (as the court indeed announced on Wednesday, January 24, 2018). He observed, however, that Lula has several legal options that would permit him to continue campaigning. As a result, the appeals court ruling on Wednesday would most likely not settle the issue of Lula's candidacy for a few months.

First, Vieira mentioned that the 2010 Lei da Ficha Limpa includes article 26-c, which allows Lula to appeal to the Superior Court of Justice and/or to the Supreme Court of Brazil, requesting that the court suspends enforcement of the ineligibility effects of the criminal sentence. If the court granted Lula's appeal before the candidate registration deadline of August 15, he would be allowed to run normally. Vieira noted that 147 mayors in Brazil were elected in the last election despite criminal convictions due to this type of injunction.

Second, PT could register Lula as a candidate even if the article 26-c appeal is not granted, as long as he is able to file an ordinary criminal appeal and no verdict is reached before August 15. In this scenario, however, Lula's candidacy could still be challenged by a third party under the Lei da Ficha Limpa, such as an opposition party or the prosecutor-general—and Vieira was confident that

Lula's candidacy would be challenged. The Superior Electoral Court (TSE) would be charged with investigating the issue and ruling on the legitimacy of Lula's candidacy. According to Vieira, this process would take a minimum of 26 days. He mentioned that if court does not issue a ruling before the elections, Lula would be allowed to run. If the verdict prohibited Lula's candidacy, the PT could replace him on the ballot up to 20 days before the election on October 7, 2018.

In a third scenario, if the TSE ruled against Lula's candidacy, he might still be able to appeal to the Supreme Court of Brazil. Vieira stated that the timeline for a Supreme Court ruling is uncertain—potentially coming after October 7—although the court would likely feel pressure to decide before the election.

Vieira concluded by noting that while the January 24 ruling is important, the final verdict on whether Lula will be included in the ballot in October will most likely not be decided until later in the year.

Matthew Taylor, associate professor at American University, reiterated the importance of the January 24th federal appeals court ruling, discussed in detail by Vieira. He also highlighted the first week of April, when all sitting executives who intend to run for office must step down



from their current positions. This is also the deadline for all potential candidates to officially join a political party. According to Taylor, the month of August will be the third crucial moment before the October 7 election, as parties must register their candidates with the Superior Electoral Court by the middle of the month, and campaign ads and television airtime begins.

Taylor emphasized five factors important to the future of Brazilian politics:

The first factor is the uncertainty of former President Lula's campaign. If the courts prevent his candidacy, one possible scenario would see Lula supporters casting null ballots in the election, an outcome Taylor considered detrimental to Brazil. Another scenario, if the courts do not issue a final verdict before the elections, could have Lula as a valid candidate despite pending criminal litigation.

The second factor Taylor identified is the uncertain impact of new electoral laws. For the first time in a presidential election in Brazil, there will be no corporate campaign contributions; and due to the recent corruption scandals, there will be increased scrutiny of campaign financing in general. He suggested that this could affect coalition-building, which in turn affects the amount of airtime candidates will receive—a crucial campaign resource, as Limongi noted.

The third factor is the possibility that a political outsider might run for president. However, Taylor viewed such an outcome as unlikely. A strong candidate must have a high acceptance rate as well as low rejection rates, high name recognition, and a clean coalition without corrupt actors. He argued that there are no pre-candidates, either traditional politicians or outsiders, who meet all three requirements.


The fourth factor, which looks beyond this year's election, is the unpredictability of the governing coalition that will coalesce around the new president. Lava Jato has weakened the traditional groupings, which over the last thirty years have formed around the three main parties: PT, PSDB, and PMDB. The possible defeat of incumbent members of Congress could further reshape governing structures and weaken traditional coalitions.

The fifth factor is this potential turnover in Congress, as incumbents lose reelection campaigns, and its ramifications for the political system. Taylor reported that 423 of the 1,500 members of Congress he has studied over the past 16 years have either been convicted or are under investigation, including 20 of the 54 senators running for re-election.

In closing the event, **Paulo Sotero**, director of the Brazil Institute, said that despite the severity of the political crisis and the difficulty of foreseeing a solution, Brazilian society has already overcome enormous odds since the reinstatement of democracy. He suggested that Brazil's inclination to face reality and pursue practical solutions, including the effort to tame inflation in the mid-1990s and the ongoing offensive against systemic corruption, will help it overcome its current challenges.



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